

PUBLIC HEALTH AND THE LAW

Public Psychiatry and Presidential Libel

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ONE of the sorriest chapters in American journalism may well have ended in the United States Court of Appeals in New York City during this year. This very well respected court has affirmed the verdict against Ralph Ginsburg and "Fact Magazine" for its libelous attack on Presidential Candidate Barry Goldwater during the 1964 campaign.¹ The decision has a number of important implications for what I will call "public psychiatry."

Ten months after the election, Senator Goldwater brought the action in libel claiming one million dollars in compensatory damages and one million dollars in punitive damages. A jury, after 15 days of trial, awarded a verdict of \$50,000 against the magazine and \$25,000 against Ginsburg in punitive damages. They also made a nominal award of \$1 to Senator Goldwater for compensatory damages, since he offered no evidence of actual money loss due to the defamation.

The appeal by Ginsburg was based upon the famous case of *New York Times Co. v. Sullivan*,² a U. S. Supreme Court decision of 1964 wherein the high court required a finding of "actual malice" in making false and defamatory statements by the press concerning public figures. The decision, now the controlling case in political libel law in the United States, has generally been applauded by the press and journalists because of the wide scope it gives them in "commenting on" political figures and in actually making false accusations against them. However,

it makes political life all the more uncomfortable for the hardy souls who may have the courage to enter it.

American lawyers and politicians are generally happy about this new decision in *Goldwater v. Ginsburg*. All lawyers know that it is difficult to prove "actual malice." The *Goldwater* case indicates that it can be done. The basic evidence of Ginsburg's personal feelings toward the senator, his reckless disregard for the truth, and his deliberate distortion of materials are brought out forcefully and graphically in the record and in the grotesquely fascinating testimony of Ginsburg himself at the trial. Readers may recall the accounts of Westbrook Pegler's testimony in the libel action against him by Quentin Reynolds appearing in Louis Nizer's "My Life in Court" and in the stage play and television drama based upon it. This testimony by Ginsburg is far more flagrant.

The part played by many American psychiatrists in this case can be described briefly. Ginsburg's attack on Senator Goldwater was made in two issues of his magazine in articles entitled "Goldwater: The Man and the Menace." In the first article, signed by Ginsburg, the basic accusation was made that the senator was unfit for the presidency because of his mental illness, clearly spelled out by Ginsburg as paranoia. The concluding sentence of the first article compared the senator directly with "another paranoiac" in Berchtesgaden and a Berlin bunker. Adolph Hitler. These conclusions were Ginsburg's alone, not based on any ex-

pert evaluation of the senator. In the second issue, under the by-line of another editor, but written mainly by Ginsburg, appeared the results of a mail survey by the magazine among 12,356 psychiatrists in the United States. It was entitled "What Psychiatrists Say About Goldwater." It reported that 2,417 responses were received with 1,189 psychiatrists saying that they thought the senator was unfit psychologically to serve as president. Only 657 answered that in their opinions Goldwater was fit. The remainder said they did not know enough about the senator to form an opinion.

The responding psychiatrists were also invited in the questionnaire to make any remarks they would care to offer concerning Goldwater's general mental stability. Just to prompt the gullible clinicians in the right direction, the questionnaire went on to ask:

Can you offer any explanation for his [Goldwater's] public tantrums and his occasional outbursts of profanity? Finally, do you think that his having had two nervous breakdowns has any bearing on his fitness to govern this country?

We are glad to say that the great majority of psychiatrists refused to answer the questionnaire. Many wrote to the American Psychiatric Association protesting against it. The medical director of the APA, Dr. Walter E. Barton, wrote to Ginsburg expressing the indignation of the association against the questionnaire and warning that if results of such a "survey" were published, the association would take all possible measures to disavow its validity. Nevertheless, many psychiatrists did answer the survey and signed their names to various comments on the mental stability of Senator Goldwater. Ginsburg used these comments and the names of the commenting psychiatrists in his article. In many instances, Ginsburg printed a misleading version of the comments, leaving out qualifying statements, especially any casting doubt on the assertions about

the senator's "nervous breakdowns." In some cases, the comments of more than one respondent psychiatrist were "melded" into one letter or "distilled" as Ginsburg saw fit. There were no indications in the publication that the original communication had been edited or otherwise tampered with. Interspersed with the letters were a series of suggestive and scurrilous cartoons depicting the senator's psychiatric unfitness in various ways.

The Goldwater-Ginsburg incident may be over, but the abuse of political figures from a psychiatric standpoint is far from finished. Books have been published in recent years concerning Lyndon Johnson and Robert Kennedy which use similar tactics of distortion to arrive at similar conclusions. We must have a free and open examination of the physical and mental fitness of candidates for high and low political office. Physical examinations of candidates and incumbents are becoming quite common. However, routine psychiatric examinations or "checkups" are just as rare, or unheard of among political figures as among other persons who have not been mentally ill before. Under these conditions, how can destructive, false accusations of psychiatric unfitness be effectively rebutted? How can the results of competent, unbiased evaluations, if ever available, be interpreted to the people? The opportunity for distortion is very great. This is an era of instant public psychiatry. Every half-educated person in America thinks he knows something about psychology, psychiatry, and psychoanalysis. The upper middle class, especially those people associated with the mass media, are fascinated with these subjects and very often display a facile knowledge of its terminology. The cocktail parties in the tall towers of our smart cities shimmer in the cacophony of amateur psychiatric diagnoses of friends and enemies alike. Both Ginsburg and his associate, Boroson, displayed in blatant form all of these

attributes on the witness stand in this case. Both claimed quite boldly to be virtual experts in psychiatry, though they were totally without formal background or training.

This is a problem in public health and mental health for the future, it seems

to me, when psychiatry will become even more so a part of the public domain.

REFERENCES

1. *Goldwater v. Ginsburg*, 414 F.2d 324 (2d. Cir. 1969).
2. *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S. Ct. 710 (1964).

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Fluoridation Proves Its Worth

The findings of a six-year study of 766 children from Newburgh and Kingston (N. Y.) show that ingestion of optimally fluoridated water during the years of tooth development markedly reduces the onset of tooth decay and its progression. Furthermore, the process has been proved safe, and inexpensive in relation to its benefits.

Dr. David B. Ast, associate director of the Division of Medical Care Services and Evaluation, New York State Department of Health, reports that, since 1945, the Newburgh water supply has been maintained at the recommended concentration of 1 to 1.2 parts per million of fluoride while that of Kingston has remained fluoride deficient. The study

group included kindergarten and first grade children from the poorer socioeconomic areas of both cities, all of whom received free and complete annual dental care. Dr. Ast concludes that the total cost for corrective dental care for children with lifelong exposure to fluoridated water is less than half that in a nonfluoridated area. Continuing care costs just about half. "Chair time" needed to provide examination, prophylaxis, and corrective care was about one and one-half times as great in the nonfluoridated as in the fluoridated area. (Division of Medical Care Services and Evaluation, New York State Department of Health, 84 Holland Avenue, Albany, N. Y. 12208)